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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Twenty-sixth session
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Item 6 of the provisional agenda*
Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women

Reports provided by specialized agencies of the United Nations on the implementation of the Convention in areas falling within the scope of their activities

Note by the Secretary-General

Addendum

International Labour Organization

1. On behalf of the Committee, on 30 October 2001, the Secretariat invited the International Labour Organization (ILO) to submit to the Committee a report on information provided by States to ILO on the implementation of article 11 and related articles of the Convention on the Elimination of All Forms of Discrimination against Women, which would supplement the information contained in the reports of the States parties to the Convention that will be considered at the twenty-sixth session of the Committee.

2. Other information sought by the Committee refers to activities, programmes and policy decisions undertaken by ILO to promote the implementation of article 11 and related articles of the Convention.

3. The report annexed hereto has been submitted pursuant to the Committee's request.

* CEDAW/C/2002/I/1.

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Annex

Report of the International Labour Organization to the Committee on the Elimination of Discrimination against Women at its twenty-sixth session

I. Introduction

The provisions of article 11 of the Convention on the Elimination of All Forms of Discrimination against Women are dealt with in a number of International Labour Organization (ILO) conventions. Of the 184 conventions adopted so far, the information in this report relates principally to the following:

(a) The Equal Remuneration Convention, 1951 (No. 100), which has been ratified by 156 member States;

(b) The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by 154 member States;

(c) Workers with Family Responsibilities Convention, 1981 (No. 156), which has been ratified by 33 member States.

Where applicable, reference is made to a number of other conventions that are relevant to the employment of women, including:

Forced labour

(a) The Forced Labour Convention, 1930 (No. 29);

(b) The Abolition of Forced Labour Convention, 1957 (No. 105);

Child labour

(a) The Minimum Age Convention, 1973 (No. 138);

(b) The Worst Forms of Child Labour Convention, 1999 (No. 182);

Freedom of association

(a) The Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87);

(b) The Right to Organize and Collective Bargaining Convention, 1949 (No. 98);

Employment policy

(a) The Employment Policy Convention, 1964 (No. 122);

(b) The Human Resources Development Convention, 1975 (No. 142);

Maternity protection

(a) The Maternity Protection Convention, 1919 (No. 3);

(b) The Maternity Protection Convention (revised), 1952 (No. 103);

Night work

(a) The Night Work (Women) Convention (revised), 1948 (No. 89) [and protocol];

(b) The Night Work Convention, 1990 (No. 170);

Underground work: The Underground Work Convention, 1935 (No. 45);

Part-time work: The Part-Time Work Convention, 1994 (No. 175);

Home work: The Home Work Convention, 1996 (No. 177).

The application of ratified conventions is supervised in ILO by the Committee of Experts on the Application of Conventions and Recommendations (CEACR), a body of independent experts from around the world, which meets annually. The information submitted in part II of the present report consists of observations and direct requests made by the Committee. Observations are comments published in the CEACR annual report — produced in English, French and Spanish — which are submitted to the International Labour Conference. Direct requests (produced in English and French — and in the case of Spanish-speaking countries, also in Spanish) are not published in book form, but are made public. At a later date, they are published on the ILO database of supervisory activities, ILOLEX (available online or on CD-ROM).

In addition, part III of the report includes additional information on the countries concerned including statistical tables, information on technical cooperation activities and annexes (extracts of relevant comments of the CEACR) to part II of the report.

II. Indications concerning the situation of individual countries

Estonia

Position with regard to International Labour Organization conventions

Among the relevant ILO conventions, Estonia has ratified Convention No. 100 and is actively considering ratification of Convention No. 111. It has also ratified Conventions No. 29, 45, 87, 98 and 182.

Comments made by the supervisory bodies

The pending comments of the ILO Committee of Experts on matters relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to:

Convention No. 100. In its 2000 direct request, the Committee noted that, according to the National Statistics Office, women's average wages are 75 per cent of men's average wages. The Government attributed this wage disparity to the existence of horizontal and vertical occupational segregation. In this respect, the Committee noted that the publication supplied by the Government, entitled *Towards a Balanced Society: Women and Men in Estonia*, states that women are widely represented mostly in occupations that are not very prestigious in society and where the wages are below the average. The number of women in higher positions is much smaller than the number of men. The publication further states that women's wages have been approximately 25 per cent lower than those of men throughout the whole period following Estonia's regained independence, and that the disparity between men's and women's wages has increased during the last decade. From 1992 to 1998, the wage gap widened in all sectors, with the exception of skilled, agricultural and fishery workers, where wage disparities diminished (from 17 per cent in 1992 to 9 per cent in 1998). The wage gap widened most notably in respect of service workers and shop and market sales workers, where the gap widened from 16 per cent in 1992 to 36 per cent in 1998. The Committee noted that a number of measures to reduce the wage gap are contained in the National Employment Action Plan for 2001 to 2003 and include employment training, creation of conditions designed to facilitate entrepreneurship, particularly among women, creation of new jobs to reduce unemployment and special training programmes to assist economically inactive persons, particularly women, in re-entering the Estonian labour market.

The Committee had previously noted that, while section 5 of the Wages Act specifically prohibits any increase or reduction of a wage based on an employee's gender, no provision in the national legislation gives legislative expression to the principle of the Convention. In its 2000 direct request it noted that amendments to the Wages Act, including provisions on equal remuneration, are expected to be adopted in 2000/01. It hoped that the amendments will express the principle of equal remuneration for men and women workers for work of equal value. With respect to its earlier comments concerning the Phare project on equal treatment and working conditions for men and women, the Committee noted that the project report, completed in July 1999, contained proposals to address weaknesses in Estonian legislation, including proposals for drafting a gender equality act. Noting that a draft gender equality act is expected to be prepared in October 2000, the Committee hoped that it would also promote application of the Convention.

With respect to the determination of the relative value of work, the Government stated that the trade unions consider that it is not clear how work should be evaluated, and that workers' organizations do not see any disparities in collective and wage agreements. The Committee noted that the sample copies of collective agreements in various sectors supplied by the Government are gender-neutral. The Government indicated that, pursuant to the Wages Act, an employer establishes a wage system to calculate rates of remuneration for work performed, in accordance with collective agreements. Section 11 of the Wages Act establishes that the wage system to be applied to the remuneration of an employee shall be determined in the employment contract agreed to by the parties. The Committee noted previously that section 11 of the Wages Act requires employers to establish wage systems in enterprises. Further, section 9 of the Wages Act, which requires employers to establish wage rates

in enterprises, contemplates comparisons between jobs on the basis of the tasks and conditions of work. The Committee therefore requested that the Government provide information on the manner in which direct or indirect gender bias is removed from the "wage systems" established pursuant to the Wages Act and on the methods used by private sector employers in establishing wage rates in enterprises, institutions or other organizations in accordance with differences in tasks and conditions of work (see sect. 9 of the Wages Act). With respect to the public sector, the Government was requested to provide information on the methods used to establish rates of remuneration, including methods adopted for the objective appraisal of jobs on the basis of the work to be performed.

Fiji

Position with regard to International Labour Organization conventions

Fiji has ratified none of the ILO conventions particularly relevant to the Convention on the Elimination of All Forms of Discrimination against Women. It has, however, ratified Conventions No. 29, 45, 98 and 105. It has also ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

Comments made by the supervisory bodies

There are no pending comments of the ILO Committee of Experts on matters directly relevant to the provisions of the Convention.

Iceland

Position with regard to International Labour Organization conventions

Among the relevant ILO conventions, Iceland has ratified Conventions No. 100, 111 and 156. It has also ratified Conventions No. 29, 87, 98, 105, 122 and 138. Most recently, Iceland ratified Convention No. 182 in May 2000, under which a report is not yet due.

Comments by the supervisory bodies

The pending comments of the ILO Committee of Experts on matters relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to:

Convention No. 100. In its 2000 observation, the Committee noted with interest the adoption of the Act on Equal Status and Equal Rights of Women and Men (Act No. 96/2000), which came into effect on 6 June 2000 and is aimed at establishing and maintaining equal status and equal opportunities for women and men in all spheres of society. Section 14 of the Act specifically provides that women and men who are employed by the same employer shall receive equal pay and enjoy equal terms for comparable work of equal value. The Act defines pay as general remuneration for work done and includes both direct and indirect payments and benefits, which are to be determined in the same manner for women and men and to be based on criteria free from gender discrimination. The Committee noted that in regard to implementation of the Act, the Minister of Social Affairs would have overall responsibility, through an Equal Status Bureau to monitor compliance with the Act. It noted also that the Act establishes a consultative body to submit proposals to improve equality in the labour market and in other spheres — the Equal Status Council — and a Complaints Committee on Equal Status to consider allegations of violation of the Act. The Committee asked the Government to provide information in its next report on the implementation of Act No. 96/2000, including the work of the Bureau, the Council and the Complaints Committee, in promoting equal pay for work of equal value.

In a direct request in 2000 on Convention No. 100 with regard to wage differentials, the Committee noted the information included in the Government's report, indicating that women receive lower wages than men overall and that, in some instances, the wage gap was quite wide. In this respect, it noted that studies conducted by municipal bodies confirm the existence of wage differentials of 10 per cent to 16 per cent between men and women workers; data from the National Economics Institute, calculated on the basis of tax returns, indicate that on average women's employment earnings for 1998 were 52.8 per cent of men's earnings; statistical data from the Institute of Labour Market Research for 1998-1999 indicate that in all cases women receive lower wages than men for daytime work (71.4 per cent to 97.4 per cent). The Committee noted further that wage differences also exist in collective agreements, for example, there is a differential of approximately 10 per cent for women paid according to the collective agreements of the Confederation of State and Municipal Employees.

The Committee noted also the information on the project on occupational assessments using gender-neutral job ranking. The project, aimed at investigating job evaluation as a useful tool for reducing wage differentials between women and men, had concluded and had issued a report in 1998. The Committee noted that the report addresses the limitations inherent in job evaluation. The report considers that job evaluation was based on the assumption that it is possible to compare men's and women's traditional jobs in order to determine whether they are of equal value. It concluded that job evaluation techniques were not useful tools with which to address the pay gap in sex-segregated or single sex-dominated fields of activity. The report concluded that job evaluation is an extensive and complicated undertaking, which could never be a universally valid and correct yardstick for establishing the value of jobs. However, it constituted an important attempt to coordinate decisions on wages, to make them clearer by evaluating all jobs in a systematic manner and to control subjectivity in evaluating the content and value of jobs. The Committee asked the Government to keep it informed as to any measures taken to implement the findings and recommendations of the report and on any future job assessment exercises for the private sector. The Committee also observed that the new Equality Act is applicable only to men and women employed by the same employer (sect. 14). It had frequently drawn attention to the need to conduct job evaluation more broadly, including evaluating jobs in different areas of employment. The Committee asked the Government to indicate the measures taken to address the pay gap beyond the enterprise level.

With regard to its previous comment that some of the factors identified as causing gender-based wage differentials were related to the concentration of women in part-time posts and in lower income and lower status jobs, and its comment on the value of awareness-raising programmes and other educational activities aimed at promoting equal opportunity and treatment for men and women in the labour market, the Committee noted that the equal status conferences had been discontinued. Noting the new institutional structure for equality issues created under the new Act, it asked the Government to provide information in its next report on measures taken to promote equal opportunity and treatment for men and women and to reduce wage differentials by expanding the range of educational and occupational choices for boys and girls.

The Committee noted the information on the work of the Complaints Committee on Equal Status in wage discrimination cases. In this respect it noted that in 1998, 18.2 per cent of the total complaints received by the Committee concerned wage discrimination, with most complaints being brought by women, and 27.3 per cent of the complaints were brought in 1999. The Committee also noted the Supreme Court decision in Case No. 11/200 of 31 May 2000 on the interpretation of the Act on Equal Status and Equal Rights for Women and Men on equal wages for work of equal value. The Supreme Court had held that, when comparing jobs, it is necessary to base the decision on a comprehensive evaluation and jobs may be comparable in terms of equal value even though they differ in individual respects.

Convention No. 111. In a direct request of 1999, the Committee of Experts noted with interest the detailed information provided by the Government concerning the final assessment of the Four-Year Plan of Action to Establish Equality between Women and Men (1994-1997), launched in accordance with section 17 of the Equal Status and Equal Rights of Women and Men Act, 1991. It further noted that in the meantime another plan of action has been adopted (1998-2001), and it requested the Government to keep it informed of the projects developed under this second plan and the results obtained with regard to the access of women to vocational training, employment and conditions of employment. It also requested information on the results achieved by certain projects launched under the previous plan and which are still under way, such as: those designed to improve the status and number of women working in the criminal police; the project to encourage women to follow vocational training with a view to working in industry; the project to carry out a study and organize a conference on sexual harassment; and the project under which a post of counsellor was created for matters relating to equality between the sexes in the northern region, where the unemployment rate of women is particularly high.

The Committee noted that many initiatives had been taken by the Government to facilitate and promote respect for the principle of equality between the sexes in education. In this respect, noting that section 29 of the Compulsory School Act No. 66/1995 states that the aim of study and methods of work in compulsory school shall be to prevent discrimination on grounds of origin, gender, residence, class, religion or disability, the Committee invited the Government to indicate the manner in which section 29 is applied in practice.

Portugal

Position with regard to International Labour Organization conventions

Among the relevant ILO conventions, Portugal has ratified Conventions No. 100, 111 and 156. It has also ratified Conventions No. 29, 45, 87, 98, 103, 105, 138, 142 and 182.

Comments by the supervisory bodies

The pending comments of the ILO Committee of Experts on matters relevant to the provisions of the Convention on the Elimination of all Forms of Discrimination against Women:

Convention No. 111. In its 1999 observation, the Committee noted with interest the Government's detailed report and attached documentation, including legislative texts, the Global Plan for Equal Opportunities and the National Employment Plan. It also noted the comments made by the Confederation of Portuguese Industry. The Committee noted with interest information supplied concerning progress made with regard to the situation of women in the Portuguese labour market, particularly the increased participation of women in the labour market since 1995. The Committee further noted with interest the information supplied by the Government on the supervisory duties performed by the Commission for Equality in Work and Employment. The report indicated that, during the relevant period, the Commission received 100 complaints, mostly related to the dismissal of pregnant, post-natal or nursing mothers or violations of the laws protecting maternity and paternity rights. The government report indicated further that discrimination related to maternity is the form of discrimination most frequently faced by women in the Portuguese labour market. The Committee noted that, of the 37 opinions approved and published by the Commission during the reporting period, 32 dealt with gender-based discrimination, specifically dismissals or wage discrimination related to maternity. In this connection, the Committee noted with interest the enactment of Act No. 18/98 of 12 April 1998, which extended maternity leave and childcare leave benefits. The Committee also noted with interest the information in the report concerning the social dialogue on equality and the Commission's activities in publishing and disseminating information intended to raise awareness of discrimination and to promote equal opportunities and treatment between men and women in the labour market, including access to employment and vocational training.

With reference to the Confederation of Portuguese Industry's comments regarding the need to expressly repeal the legal provisions restricting night work for women, the Committee noted the Government's explanation that section 31 of Legislative Decree No. 409/71, which prohibited women from engaging in night work in industrial establishments, had been tacitly repealed pursuant to section 7 (2) of the Portuguese Civil Code. The Government indicated that the new legislation regulating night work, Act No. 73/98 and Legislative Decree No. 96/99, do not prohibit women from engaging in night work. The Committee noted from the Government's report that the only restrictions on the amount of night work women may perform are those designed to ensure maternity protection (see sects. 17 and 19 of Act No. 4/84 of 5 April 1984, as amended by Acts No. 17/95 of 9 June 1995, 102/97 of 13 September 1997, 18/98 of 28 April 1998 and 142/99 of 31 August 1999). Moreover, the Government indicated that the restrictions contained in the legislation cited are in accordance with article 7 of the Night Work Convention, 1990 (No. 171). While the Committee noted the Government's statements in this regard, in view of the Confederation's expressed concerns, the Committee nevertheless requested the Government to indicate whether it contemplates the explicit repeal of the prohibition set forth in section 31 of Legislative Decree No. 409/71.

The Committee also notes with interest the adoption of Act No. 134/99 of 28 August 1999 prohibiting discrimination on the basis of race, colour, nationality or ethnic origin in, inter alia, employment and training.

In a direct request of 1999, the Committee noted that the number of infractions involving discrimination on the basis of sex registered by the General Labour Inspectorate decreased from 97 in 1993 to 32 in 1996. The Committee asked the Government to provide information on the measures taken to provide technical training to inspectorate staff to enable them to secure the full application of the principle of non-discrimination enshrined in the Convention.

Convention No. 156. In a 1999 direct request the Committee noted that the objectives of the Global Plan

for Equal Opportunities include helping workers balance their work and family responsibilities by promoting, together with the social partners, the idea of shared responsibility in reconciling family and professional life. In this connection, the Committee noted with interest the many activities being carried out to raise awareness of the principle of equality of opportunity and treatment in the context of family responsibilities, including training courses in equal opportunities for lawyers and judges and courses for training equal opportunity specialists.

The Committee also noted the results of the 1995 survey conducted by the Commission on family assistance for older persons: policies and initiatives in enterprises to provide support for older dependants. The Committee noted that the majority of the enterprises surveyed (84.3 per cent) had no specific policies aimed at assisting workers with family responsibilities towards older dependants. A majority of these enterprises did not consider the implementation of such measures to be important and 20 per cent indicated that they did not feel it was their responsibility to adopt such measures. Moreover, 60 per cent of the enterprises surveyed indicated that female workers were absent more often than male workers because of their family responsibilities towards older persons. The Committee noted the Commission's conclusions that, given the ageing of the European population, the increased participation of women in the labour market and increased social security costs, it is necessary to implement innovative measures to assist families in caring for older dependants. In this connection, the Committee noted with interest the Programme for Integrated Support for Older Persons, established jointly by the Ministry of Health and the Ministry of Labour and Social Security in 1994, and whose objectives include the development of support systems for families caring for dependent persons, particularly older dependants.

Further, the Committee noted a pilot project launched in March 1999 to provide vocational training for workers who have faced problems in accessing other available training, including workers who have been unemployed for a prolonged period of time or who seek to re-enter the job market after a prolonged absence.

Convention No. 103. In a 1997 observation the Committee noted the amendments made under Act No. 17/95 to Act No. 4/84 on maternity and paternity protection. In an accompanying direct request of 1997, the Committee noted with interest that under section 9 of the Act of 1984, as amended, maternity leave had been extended from 90 to 98 days. It noted, however, that paragraph 5 of section 9 establishes compulsory maternity leave of at least 14 days but does not specify when the leave must be taken. In this connection, the Committee wished to draw the Government's attention to the fact that, under the Convention, the period of compulsory leave after confinement may in no case be less than six weeks, during which period the woman may not be authorized to work. The Committee therefore asked the Government to indicate the measures taken or envisaged to bring the legislation into conformity with these provisions of the Convention.

The Committee also noted the information that women who may not claim maternity benefits as a matter of right may receive the family allowance for children and young persons, as established by Legislative Decree No. 133-B/97, without prejudice to the social assistance benefits already mentioned in its previous report. The Committee recalled that social assistance benefits are intended to assist anyone in need and so are not confined to women needing maternity protection. Furthermore, there is no legal or financial guarantee that social assistance of a prescribed amount and duration will be awarded to all mothers or pregnant women in case of need, as this provision of the Convention requires. As for the new benefit established by Decree No. 133-B/97, the Committee noted that this monthly allowance is awarded under the family benefit scheme from the birth of the child up to the age of 16 years, a higher age limit applying in certain circumstances (sect. 19 of the legislative decree). It is an allowance intended for the maintenance and education of the child and cannot therefore replace cash maternity benefits, which are intended to compensate for loss of earnings while the woman is on leave. In this connection, the Committee again reminded the Government that, under the Convention, women who fail to qualify for maternity benefits provided as a matter of right shall be entitled, throughout the period of leave provided for in article 3 of the Convention, to adequate benefits out of social assistance funds, subject to the means test required for social assistance.

The Committee noted further that by virtue of Act No. 17/95, a new section 18-A has been included in

Act No. 4/84, under which the dismissal of a pregnant woman, a woman who has just given birth or who is nursing is presumed to be an unjustified dismissal. The dismissal must also have the prior favourable opinion of the Commission for Equality in Work and Employment, which is the body responsible for ascertaining that the dismissal is not based solely on reasons connected to maternity. If the above Commission is unable to give an opinion within 30 days, the requirement concerning the issue of a prior opinion is considered to have been met (sect. 30 (3) of Legislative Decree No. 136/85). The Government stated, in this connection, that employers may dismiss workers only in the general framework of dismissal for just cause; the law does not prohibit termination of employment during maternity leave, but aims to ensure equal treatment for men and women workers in the event of dismissal. In this respect, the Committee noted with interest that new section 18-A of Act No. 4/84 on maternity protection, as amended, now refers to the prohibition of dismissing pregnant women, women who have just given birth or nursing mothers. It also noted that this section has introduced the presumption that the dismissal of such women is unjustified. However, this provision does not prohibit termination of the woman's work contract in all cases, but makes dismissal contingent upon a prior opinion of the Commission in order to avoid all discrimination based on maternity and its consequences. The Committee also noted that the opinions of the Commission do not appear to be binding, even if the Government states that in most cases where the Commission has given an unfavourable opinion, the dismissal has not been carried out. Furthermore, the Committee recalled that the notion of just cause, under Portuguese law concerning dismissal, also includes disciplinary grounds, about which the legislation is very unspecific.

In that context, the Committee recalled that article 6 of the Convention aims to prohibit the employer from dismissing a woman who is absent from her work on maternity leave or from giving her notice of dismissal at such time that the notice would expire during the absence, and asked the Government to reconsider this matter and to indicate in its next report the measures taken or envisaged to give full effect to this article of the Convention. The Committee also asked the Government to specify the situation of women who are dismissed despite an unfavourable opinion from the Commission or in the absence of an opinion, indicating also the effect of such dismissal on entitlement to the maternity benefits guaranteed by the Convention.

Convention No. 122. In its 2000 observation, the Committee noted the improvement in the general state of the economy and the positive trends in employment growth, increased participation and decreased unemployment for many categories of workers. The General Confederation of Portuguese Workers (CGTP) stated that the Government has made some progress, but it did not agree with the Government's focus on active employment policies. CGTP also considered that there had been an increase in the precariousness of employment. The Government agreed with CGTP that there had been an increase in non-permanent contracts, particularly affecting young workers, women and part-time workers. However, it pointed out that there had been modest but positive growth in permanent contracts, from which women have benefited the most.

Russian Federation

Position with regard to International Labour Organization conventions

Among the relevant ILO conventions, the Russian Federation has ratified Conventions No. 100 and 111. It has also ratified Conventions No. 29, 45, 87, 98, 100, 103, 105, 122, 138 and 142.

Comments by the supervisory bodies

The pending comments of the ILO Committee of Experts on matters relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to:

Convention No. 111. The Committee noted in a direct request of 2000 that the draft Act to amend and supplement the Labour Code was approved by the State Duma on 27 October 1999. The Committee noted that the draft Labour Code provided that distinctions, exclusions, preferences and restrictions based on the inherent requirements of a particular job or arising out of the State's special concern for persons requiring greater social and legal protection shall not constitute discrimination. Noting that women, youth and the disabled are included in this category and that there is a special list of jobs that women are prohibited from performing, the Committee requested the Government to provide further information on whether this list had been examined in the light of recent scientific and

technological developments and in the light of the promotion of equality of opportunity and treatment to ensure that such prohibitions are still necessary.

The Committee also noted from a report of the United Nations Committee on the Elimination of Discrimination against Women that women account for 70 per cent of the country's unemployed, and that there are constraints on women's ability to exercise their equality of opportunity as a consequence of the transformation to a market economy.[1] Within this context, the Committee also took note of information contained in a report of the Women's Rights Project of Human Rights Watch indicating widespread discrimination in employment on the basis of gender, including in hiring, firing and retraining.[2] Taking note of the Government's plan of action to improve the status of women and to upgrade their role in the society by 2000 (Act No. 1032 of 29 August 1996), the Committee requested the Government to provide concrete information on measures taken or contemplated to implement the plan, including statistical information disaggregated by sex on the labour market, the workforce, participation in training and retraining programmes and the employment prospects of those who received training. In that context, the Committee recalled its previous comment requesting information on measures taken to promote equal access of women and men to senior executive and managerial posts.

Convention No. 103. In its 2000 direct request the Committee noted that, under section 170 of the Labour Code, it is prohibited to terminate the employment of a woman employee during her pregnancy and until her child has reached the age of three years, except in cases of the total liquidation of the enterprise or establishment, in which case there is an obligation to find a new job for the employee. In this respect, the Government stated that data received from the labour inspectorate indicate an increasing number of cases of violations of the rights of women employees who are illegally dismissed during their pregnancy, their maternity leave or their parental leave, mostly in the context of the restructuring of the enterprise, a change of ownership or staff reductions. In these conditions, the Committee requested the Government to continue providing information on the cases of violations reported with an indication, where appropriate, of the number of women employees illegally dismissed during their maternity leave. It hoped that the Government would indicate in its next report the measures taken or envisaged to combat these violations and to ensure compliance with the rights of women employees during their maternity leave, in accordance with this provision of the Convention.

Sri Lanka

Position with regard to International Labour Organization conventions

Among the relevant ILO conventions, Sri Lanka has ratified Conventions No. 100 and 111. It has also ratified Conventions No. 29, 45, 87, 98, 103, 138 and 182 (March 2001). A first report on Convention No. 111 is due this year. The first report under Convention No. 182 is not yet due.

Comments by the supervisory bodies

The pending comments of the ILO Committee of Experts on matters relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to:

Convention No. 100. Recalling its previous comments on the existence of different wage rates for men and women in the tobacco trade and different time/piece rates for men and women in the cinnamon trade, the Committee noted in its 2000 observation on the Convention that the Government continues to explore the possibility of having a uniform wage rate determined by the Commissioner of Labour under section 33 (1) of the Wage Boards Ordinance. It urged the Government to take such steps as are necessary to eliminate wage differentials between men and women in the tobacco and cinnamon trades, as required under article 2 of the Convention, and asked the Government to continue to provide full information on all measures taken or contemplated.

The Committee noted that the National Labour Advisory Council had not considered the issue of equal pay for the past five years. It noted also that the Lanka Jathika Estate Workers' Union had reiterated its earlier comments regarding non-compliance with article 4 of the Convention by the Government. The Committee therefore recalled its previous comments on the value of cooperating with employers' and workers' organizations to implement the provisions of the Convention and asked the Government to provide

further information in its next report on particular steps taken in this regard.

In the direct request of 2000 on Convention No. 100, the Committee noted that the process of adoption of the draft Equal Opportunity Bill had been suspended as a result of protests from various segments of society. It asked the Government to keep it informed of any steps taken or contemplated in the future to adopt legislation expressing the principle of equal remuneration for men and women for work of equal value.

With reference to its previous comments on how wage equality is ensured in respect of private and public sectors of employment, including export processing zones, the Committee noted that the wages in those zones are determined by the board of investments, which is responsible for governing the activities of enterprises located in the zones, and that these are generally higher than the wage rates determined by the wage boards for the different trades. In this respect, the Committee noted that there were wage variations in the garment factories in the different export processing zones between men and women engaged in the same tasks, for example, male packers in the Koggala zone received 1,800 rupees per month, whereas female packers were paid 1,525 rupees. It asked the Government to provide information on any such pay disparity, the reasons for it and any corrective measures taken. It also requested information on any measures taken or contemplated to ensure equal remuneration for work of equal value in all sectors, public and private, including in the export processing zones.

Regarding job classifications and wage determination, which, although not based on the sex of the workers, may result in sexual stereotyping and gender bias, the Committee noted the information in the government report on the existing lacunae in detailed data collection. It recalled its previous comments on the subject and noted that the Government intends to seek the Office's technical advisory services on statistics in order to facilitate data collection, disaggregated by sex.

The Committee noted the information in the report regarding salaries in the public sector and in quasi-governmental institutions, such as public corporations. It also noted from the information on the number of men and women in government corporations and statutory boards (1997) that a large number of women are employed in low-level occupations, such as clerical jobs and as unskilled labourers, as noted in its previous comment. In the absence of information on measures taken or planned to increase women's occupational choices and to encourage the upward mobility of women in the public sector, the Committee asked the Government to provide further information in this respect, as well as on the salary scales for the different occupations, disaggregated by sex.

With reference to objective job appraisals, the Committee noted the information in the Government's report indicating that the private sector has its own job evaluation methods. It noted also that the Lanka Jathika Estate Workers' Union had again reiterated its comments, submitted in 1998, that no objective job evaluation system exists and that it awaits effective measures to comply with article 3 of the Convention. The Committee drew the attention of the Government to its previous comments on this subject and asked the Government to provide information on concrete measures taken in this respect in its next report.

Convention No. 103. In its observation of 1999, the Committee noted the detailed information communicated by the Government in its latest report and comments made by the Lanka Jathika Estate Workers' Union and the Employers' Federation of Ceylon on the application of the Convention.

In its previous comments, the Committee drew the Government's attention to the application of the Convention with regard to female plantation workers and, in particular, the system of alternative maternity benefits (sect. 5 (3) of the Maternity Benefits Ordinance No. 32 of 1939), a system that does not make it possible to ensure the full application of the Convention to the female workers covered by this system. In this regard, the Government indicated that a collective agreement had been signed with several trade unions and 21 management companies in the plantations covering 585 estates to the effect that, since 1 January 1997, female workers were paid the maternity benefits laid down in the Maternity Benefits Ordinance without reduction. However, a small number of plantations managed by two public corporations were not bound by this collective agreement. The Government added that the Department of Labour was currently conducting a study on alternative maternity benefits and that, once it is finished, measures should

be taken to amend the above-mentioned Maternity Benefits Ordinance.

The Committee noted this information with interest. It recalled, however, that cash benefits granted to female workers under the alternative benefits system, which still apply to a certain number of workers, amount to four sevenths or six sevenths of their previous wages, which is less than 49 per cent of their previous earnings, whereas under article 4, paragraph 6, of the Convention, where cash benefits are based on previous earnings, they shall be at a rate of not less than two thirds of those earnings. It also recalled the concerns expressed by the Lanka Jathika Estate Workers' Union in regard to the low quality of the medical benefits provided by the medical centres in the plantations. In these circumstances, the Committee hoped that the Government would be able very shortly to amend the relevant articles of said Ordinance in order to ensure that all female workers covered by the Convention receive cash benefits and medical care in conformity with the Convention.

In its previous comments, the Committee also drew the Government's attention to the reduction of the total duration of maternity leave to six weeks when the female worker gives birth to a third child (or when the child is stillborn). The Government indicated that this reduction responds to considerations connected with the national population policy implemented in 1985, which encouraged small families. The need to grant maternity leave of a total duration of 12 weeks, of which it was compulsory to take 6 after confinement, was a problem of which the Government took note, even though at present no measure had been taken since no political decision had been taken to this effect. The Committee hoped that the Government would be able to carry out the necessary legislative amendments in the very near future in order to ensure full application of article 3, paragraphs 2 and 3, of the Convention to all female workers covered by this instrument, irrespective of the number of their children.

Trinidad and Tobago

Position with regard to International Labour Organization conventions

Among the relevant ILO conventions, Trinidad and Tobago has ratified Conventions No. 100 and 111. It has also ratified Conventions No. 29, 87, 98 and 105.

Comments made by the supervisory bodies

The pending comments of the ILO Committee of Experts on matters relevant to the provisions of the Convention on the Elimination of All Forms of Discrimination against Women relate to:

Convention No. 100. Trinidad and Tobago ratified the Convention in 1997 and the Committee of Experts examined the Government's first report at its 2000 session. In a direct request of the same year, it noted with interest the adoption of the Equal Opportunity Act of 2000, which expressly prohibits discrimination in employment and promotes equality of opportunity. While noting that this prohibition appears to be sufficiently broad to cover the elements of remuneration set out in the Convention, in the absence of a specific provision relating to equal pay for work of equal value, the Committee asked the Government to indicate the manner in which the principle of equal remuneration for men and women for work of equal value is to be applied in practice.

The Committee noted also that the new Act applies to all workers in the public and the private sectors. It noted further that certain sectors of activity and groups of workers are excluded from the application of the Act, including, among others, sports, clubs, voluntary bodies, non-profit organizations and religious bodies (part V, Non-application of the Act) and domestic workers (art. 13 (1)). In this context, the Committee drew the attention of the Government to part-time workers, who, although covered by the new Act, are excluded from the application of other legislative provisions. The Committee asked the Government to provide information indicating the manner in which these workers will be protected under the Convention.

The Committee noted copies of three collective agreements included with the Government's report as examples of collective agreements entered into between the workers and the public sector where they are employed, such as Port of Spain City Corporation, San Fernando City Corporation and regional corporations and the lists of occupations detailed in these agreements and corresponding wages. It noted with concern that these collective agreements contain differences in the salary scales for male and female labourers, with no other indication of the ground for this wage differential other than gender. Noting that this wage differential is not in conformity with the

Convention, the Committee asked the Government to provide information in its next report on the measures taken to remove this difference between men and women in the collective agreements and to ensure that other such agreements entered into in the future do not include sex-based wage differentials.

Convention No. 111. In its 1999 direct request, the Committee of Experts noted with interest the adoption of the Maternity Protection Act of 1997 which, inter alia, provides protection to all working women in respect of the terms and conditions and security of their employment during pregnancy and maternity leave.

Further to the Committee's previous comments concerning the discriminatory nature of provisions in several government regulations, which provide that married female officers may have their employment terminated if family obligations affect their efficient performance of duties (section 57 of the Public Service Commission Regulations; sect. 52 of the Police Commission Regulations; sect. 58 of the Statutory Authorities' Service Commission Regulations), and that a female officer who marries must report the fact of her marriage to the Public Service Commission (sect. 14 (2) of the Civil Service Regulations), the Committee noted the Government's indication that these regulations are being comprehensively revised, one of the general objectives of the revision being the removal of any element of discrimination which might exist in them.

The Government's latest report on the application of the Convention has been received and was examined by the Committee of Experts at its November-December 2001 session.

Uruguay

Position with regard to International Labour Organization conventions

Among the relevant ILO conventions, Uruguay has ratified Conventions No. 100, 111 and 156. It has also ratified Conventions No. 29, 87, 98, 105, 122 and 138.

Comments by the supervisory bodies

The pending comments of the ILO Committee of Experts on matters relevant to the provision of the Convention on the Elimination of All Forms of Discrimination against Women relate to:

Convention No. 111. In its 2000 observation, the Committee recalled the observations presented by the Association of Employees of the National Board of Electrical Power Stations and Distribution (AUTE) of the Inter-Union Assembly of Workers-National Convention of Workers (PIT-CNT) concerning discrimination on the basis of sex which had taken place in the National Board of Electrical Power Stations and Distribution. It had been alleged that, because special social security standards were applied to women, women workers received smaller amounts than men when they collected voluntary redundancy benefits. The Committee had recalled the wide scope of article 1 (a) of the Convention and of paragraph 2 (b) (iv) of Recommendation No. 111 and had requested the Government to inform it of the final results of the proceedings initiated by the labour inspectorate in this case.

In this connection, the Committee took note of the decision of the labour inspectorate of 15 August 1997, attached to the Government's report. This decision contains an analysis of the allegations by the parties and the opinions of other bodies consulted. The retirement incentive plan impugned by the representatives of the women workers, which was approved by Directorate decision of 10 September 1996, distinguishes between two categories of employees covered by the normal retirement system: (a) employees between 55 and 59 years of age, who would receive an incentive equivalent to 12 months' wages; and (b) employees who would receive, on reaching 60 years of age, an incentive equivalent to 18 months' wages. Although the Plan makes no reference to gender, the age band of 55 to 59, which receives an incentive of six months less, refers to women, since at the time that the situation arose only men could retire at 60 years of age under the ordinary scheme. The Committee noted that the decision of the labour inspectorate reveals that no one could have been unaware that, under the retirement scheme in force at the time of the Plan, a women of 55 years of age was in an identical situation legally, for the purposes of the Plan, as a man of 60 years of age, and that therefore their retirement incentives must be equal.

The Committee noted with interest that in the above decision, the Labour Inspectorate urges the Directorate, "within the limits possible to it" to allow

an incentive of 18 months' wages to women public servants disadvantaged by the plan in question. However, it noted that the phrase "within the limits possible to it" leaves doubt as to the obligatory nature of the order and as to the degree to which it may have been respected. The Committee recalled that where identical conditions, treatment or criteria apply to all, but where their consequences seriously disfavour certain workers because of their race, colour, sex or religion, and where such conditions have no direct connection with the requirements of the employment, it amounts to indirect discrimination. The Government was therefore requested to indicate whether all the women disfavoured by the indirect discrimination arising from the Plan have received the corresponding 18 months' wage incentive, and if measures have been adopted to ensure that the conferring of such benefits does not disproportionately disadvantage women as compared to men.

The 2000 direct request on Convention No. 1000 noted that the reformulation of the National Plan of Action for Women and the Family was not approved. It also noted that the Government's report indicates concrete action in respect of the principle, such as the Committee on proposals and follow-up to the Beijing Conference on Women, the Honorary Committee on Rural Women and the Tripartite Committee on Equality of Opportunity and Treatment established on 7 March 1997, in replacement of the inter-institutional committee provided for under Decree No. 37/97, which was never convened. It observed with interest that according to the communication from PIT-CNT, the Tripartite Committee meets fortnightly and organized a course for labour inspectors in 1997 and a course on discrimination aimed at public services in 1999. The Committee hoped to be kept informed of the functioning of and action taken by these committees. It also requested to be kept informed of the plans and activities developed by the Tripartite Committee on Equality of Opportunity and Treatment in general, as regards categories other than sex covered by the Convention. The Committee also reiterated its request for information on cases in which Decree No. 37/97 may have been applied.

Convention No. 156. In a direct request of 2000, the Committee noted that although the institutional coverage for the care of infants is still limited and only some public kindergartens are open for up to eight hours (in poor areas), in the last few years access to pre-school public education has begun to be extended to children of 3 and 4 years of age as part of the education reform. The Committee also noted that some state bodies have childcare services and that the quantity and quality of childcare facilities has increased greatly in the private sector. The Committee asked whether men and women who leave their children in the care of private institutions receive any kind of allowance or refund for the payment of such services.

With reference to its previous comments, the Committee took note of Decision No. 89 handed down by Labour Tribunal No. 8 in Montevideo on 18 November 1993.[3] The Committee noted with interest that that tribunal ruled that, by dismissing a working mother for having refused a change in working hours on grounds of family responsibility, the enterprise was in breach of the provisions of the Convention. The Committee requested the Government to continue to provide information in its future reports on any judicial or administrative ruling pertaining to the Convention.

The Committee had not received the information it requested on the scope and application in practice of Act No. 16045 (sects. 1, 2 and 2.H) in regard to the prohibition of discrimination against workers with family responsibilities. The Committee again requested that information.

Convention No. 103. In a direct request of 2000, the Committee noted with interest that section 28 of Act No. 16.104 of 23 January 1990 enables a woman public servant who is nursing her child to request a 50 per cent reduction in working time, with no loss of wages. In its earlier comments, the Committee again drew attention to the provisions of section 27 of Decree No. 457/988 of 12 July 1988, under which a woman worker who is a member of a collective medical assistance institution who has not completed a qualifying period of 300 days by the date of confinement does not receive medical maternity benefits.

III. Additional information

Estonia

A workshop on the implementation of the principles of equality and equal remuneration for work of equal value (Conventions No. 100 and 111), with the

assistance and participation of the International Labour Office, is planned for January 2002.

Estonia has been experiencing dramatic increases in unemployment, which have had a particularly severe impact on women. In this context, the Government of Estonia approached ILO for assistance in developing a national plan of action for more and better jobs for women. With financial support from the Government of Finland, implementation began in January 1999 with a series of gender-sensitization and awareness-raising seminars to build the capacity of local policy-makers and planners to better implement policies promoting women's employment.

A pilot project in one of the poorest rural counties, Valga, has generated widespread local support. Women's organizations have been working closely with the local development authorities, trade unions and business groups to promote the economic revitalization of rural areas. Equipped with the training provided by an international expert, they have identified viable opportunities for employment creation and enterprise development, such as rural tourism and alternative agricultural products. To translate these potentials into actual opportunities, more than 400 women have been participating in skills and business development programmes. A microcredit component is also being prepared to enable the women to take the next step and start their own enterprises.

The local women's active participation has made them feel they own the project and has contributed to enhancing their self-confidence and empowerment. Regular dialogue between the network of women's organizations and the local authorities has given women a stronger voice in their community's development. As the project continues, targeted interventions are being extended to other poor counties, and special attention is being given to especially vulnerable groups, such as older women workers and Russian-speaking groups. ILO will shortly publish a training guide on the employment of older women workers in Estonia.

Russian Federation

Capacity-building programme on gender, poverty and employment in the Russian Federation and six Commonwealth of Independent States countries

Over the past few years, fundamental changes in labour market dynamics in the Russian Federation and some other Commonwealth of Independent States (CIS) countries have demonstrated a substantial weakening of women's position. The dynamics of social and economic indicators reveal a number of negative trends, namely, that women's share in fast-developing and highly paid sectors is decreasing, industrial and occupational segregation is growing, and more women than men stay jobless for a long period of time. Women are more likely to be released from work; and the rate of unemployment among women entering the labour market for the first time is also higher.

In a reply to a request for ILO assistance made during an international seminar on gender mainstreaming in technical cooperation projects in the social and labour sphere, held in November/December 2000 in Saint Petersburg, ILO has recently drawn up a capacity-building programme on gender, poverty and employment covering the Russian Federation and six CIS countries. The programme involves research and capacity-building components. The research will examine the situation of women's employment and review poverty eradication policies and programmes. National analytical reports will be prepared, and the appropriate modular packages of the ILO Gender, Poverty and Employment Programme will be adapted to natural conditions. Key results of the activities are anticipated to:

(a) Develop the knowledge basis and collect gender-sensitive statistics in relation to employment;

(b) Increase awareness of the tripartite constituents of the urgent necessity to combat unemployment and poverty in the regions;

(c) Begin the process of adapting the Gender, Poverty and Employment Programme modular package in close cooperation with the local governments;

(d) Raise institutional capacity-building in different structures (training of trainers), develop practical tools to implement Gender, Poverty and Employment Programme modules in concrete national

conditions, and render help to our counterparts in using them;

(e) Explore the possibility of connecting the Gender, Poverty and Employment Programme with some other ILO Moscow activities and projects in the field.

Comprehensive model for the rehabilitation of working street girls in Saint Petersburg

The International Programme on the Elimination of Child Labour (IPEC) has drawn up an action programme to rehabilitate working street girls in St. Petersburg, which is expected to be launched soon.

A recent sociological study on child prostitution supported by the St. Petersburg Office of the Nordic Council of Ministers (May 2000) revealed generally the alarming increase of worst forms of child labour in the north-western part of the Russian Federation, particularly in St. Petersburg. The 1999 St. Petersburg report of Médecins du Monde contains similar findings. Child prostitution, as one of the worst forms of child labour, is becoming a matter of common knowledge in the city. The number of children sexually abused is being estimated to reach approximately 6,000, according to an IPEC study conducted in the autumn of 2000. Children involved in prostitution are the most vulnerable group of street children. They remain unprotected, since so far there have been no specific programmes in the city to address these flagrant cases of child abuse.

Completed in October 2000, the IPEC in-depth analysis of the situation of working street children in St. Petersburg confirmed as well the results and conclusions of previous studies. It also provided detailed information on the causes, conditions and consequences of child labour performed by street girls. According to the analysis, nearly all street girls are involved in prostitution to a certain extent, although three quarters of them have one or both parents and a parental home. The average age of those involved in prostitution was found to be 12 years; 13- and 14-year-old street girls in prostitution account for 6 per cent and 14 per cent of the sampling respectively.

The IPEC research shows that economic reasons are the driving force of child prostitution. About 80 per cent of those interviewed said that they needed money and/or food to survive. Fifteen per cent of the girls are working for organized structures that "supply" minors for sexual services. The analysis underlined the alarming state of public awareness of child prostitution and the involvement of adults. Thus, 46.1 per cent of children in prostitution have been encouraged by an adult acquaintance, and 4.3 per cent by a family member.

The analysis of problems related to girls' street work reveals the influence of the following main factors:

(a) The role of the woman or girl in the society is still largely underrated;

(b) The city authorities have no policy on street girls;

(c) Existing rehabilitation mechanisms need to be adjusted to today's situation of the street children;

(d) The continuing economic crisis experienced by most street girls' families is an aggravating factor leading to the worst forms of child labour;

(e) The community and policy makers do not comprehend the seriousness of the issue of child prostitution and other worst forms of child labour.

The action programme is designed to develop a rehabilitation model and apply it to 100 street girls and girls at risk of sexual exploitation, who are affected by lack of education, continuous family crisis, social exclusion and isolation. The action programme implementation will involve various agencies and non-governmental organizations in St. Petersburg.

Sri Lanka

ILO has commissioned a case study on Sri Lanka with regard to good practices to prevent women migrant workers from going into exploitive forms of labour. This independent research will be published shortly.

Trinidad and Tobago

The ILO Caribbean Office is currently undertaking a study on discrimination in employment and occupation, which will include gender-based discrimination and multiple grounds of discrimination.

The ILO InFocus Programme on Boosting Employment through Small Enterprise Development, in

cooperation with the ILO Caribbean Office, has undertaken a study on jobs, gender and small enterprises in the Caribbean: lessons learned from Barbados, Suriname and Trinidad and Tobago. The study is published as SEED Working Paper No. 19.

Notes

[1] *Official Records of the General Assembly, Fiftieth Session, Supplement No. 38* (A/50/38), paras. 496-552.

[2] Human Rights Watch. *Russia and Chechnya: Neither Jobs Nor Justice*, March 1995, vol. 7, No. 5.

[3] *Revista de Derecho Laboral*, vol. XXXVII, No. 176, 1994.